

**REMARKS/ARGUMENTS**

In this Action, made final, the Examiner again rejected claims 1-7, 14-19, 23-30, and 37-63 under 35 USC §102(e) over US patent number 6,108,300 (Coile et al.) and again rejected claims 8-13, 20-22, and 31-36 under 35 USC §103(a) over Coile et al. in view of US patent number 5,828,853 (Belville et al.). These rejections are again respectfully traversed on the same ground as before.

In finding applicant's arguments unpersuasive, the Examiner opined that, contrary to applicants' arguments, the active network device and the standby network device of Coile et al. do not swap their MAC addresses upon failure of the previously-active network device.

Applicants respectfully assert that the Examiner is wrong. Coile et al. explicitly state that the two devices do swap their MAC addresses between them. For example, col. 1, lines 38-40 state that “The backup network device takes over the active MAC and IP addresses from the failed network device...” Col. 6, lines 11-13 state that “the active MAC address is adopted by the active network device and is therefore not assigned to only one device.” Col. 7, lines 17-23 state that, if the formerly-active device still responded to its former MAC address, a switch might not be able to properly learn that the active MAC address has changed; “this is avoided and the former active device moves to the standby IP and MAC address.” Col. 10, lines 34-49 state that “when the active and standby network devices change state, they also change MAC address and IP addresses...”, “the devices have traded IP and MAC addresses”, “the active MAC address has moved over to...the backup device, which is now active”, and “the primary device...begin[s] using the MAC and IP addresses of the standby device” (emphasis added). And, col. 12, lines 15-20 state that “The backup device assumes the MAC address and the IP address of the active device [, and] the formerly active device...assumes the standby MAC address and standby IP address.”

Furthermore, col. 1, lines 36-37 state that this swapping of the MAC and IP addresses between the failed active device and the standby device eliminates “the need for other network devices to change the MAC or IP address to which they are directing packets.” Correspondingly, col. 12, lines 41-44 state that “Because the backup device assumes the active MAC address, it is not even necessary for each of the clients to ARP to find out a new MAC address...to which the client is attempting to connect.” These statements would not be true if, as the Examiner asserts, the two devices did not swap their MAC addresses.

It should therefore be amply evident that the two network devices in Coile et al. do swap their MAC addresses upon the failure of one of them, and consequently that the teaching of Coile et al. is directly contrary to the recitations of applicants’ claims. Furthermore, the teachings of Belville et al. do not affect this teaching of Coile et al. Consequently, the teaching of Coile et al. either taken alone or in combination with the teaching of Belville et al. fails to render applicants’ claims unpatentable. Applicants therefore request that the Section 102(e) and 103(a) rejections of their claims be withdrawn.

Applicants’ attorney thanks Examiner Ha for a telephone interview conducted in the case on 28 October 2004. Applicants’ attorney sought to get an understanding of how the Examiner squares her characterization of Coile et al. with the directly-contrary explicit disclosure of Coile et al. After some discussion, the Examiner requested applicants’ attorney to submit his arguments in a written response to the final Office Action.

The Examiner also objected to claim 51 for containing a typographical error. In response, applicants have amended claim 51 to fix the error. Applicants therefore request that the objection to claim 51 as amended be withdrawn.

The Examiner’s rejections and objection having been properly responded to and overcome, applicants respectfully suggest that the application is now in condition for allowance. Applicants therefore

Serial No. 09/540,238  
Amdt. Dated 22 November 2004  
Reply to Office Action of September 22, 2004

**RESPONSE UNDER 37 C.F.R. 1.116 – EXPEDITED  
PROCEDURE – EXAMINING GROUP No.: 2135**

respectfully request that the application be reconsidered and thereafter be passed to issue.

Although applicants believe the foregoing to be dispositive of all issues outstanding in the application, if the Examiner should deem that a telephone interview would advance prosecution, applicants request the Examiner to contact their attorney at the telephone number listed below.

Respectfully submitted,

**Satish Bommaraddy  
Srinivas Chaganty  
Makarand Kale**

By David Volejnicek /SKW

David Volejnicek  
Corporate Counsel  
Reg. No. 29355  
303-538-4154

Date: 22 Nov. 2004

Avaya Inc.  
Docket Administrator  
307 Middletown-Lincroft Road  
Room 1N-391  
Lincroft, NJ 07738